

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

THURMAN KIRKWOOD

PLAINTIFF

V.

CIVIL ACTION NO. 4:19-CV-00139-DAS

JOE HERRINTON, CEASAR,
and PELICIA HALL

DEFENDANTS

ORDER TRANSFERRING ACTION
TO THE SOUTHERN DISTRICT OF MISSISSIPPI

Before the court is *pro se* Plaintiff Thurman Kirkwood's complaint filed pursuant to 42 U.S.C. § 1983. Kirkwood complains about the conditions of his confinement at the South Mississippi Correctional Institution ("SMCI") and names Superintendent Joe Herrinton, Warden Ceasar, and Commissioner Pelicia Hall as Defendants in this action. Upon review of Kirkwood's complaint, the court finds that this civil action should be transferred to the Southern District of Mississippi.

Venue is proper in:

- (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;
- (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, . . . or
- (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b). Venue is not proper in this district because none of the named Defendants reside in the Northern District of Mississippi nor did a substantial part of the events or omissions giving rise to Kirkwood's claims occur in the Northern District of Mississippi. Defendants Herrinton and Ceasar reside in Greene County, Mississippi, while Defendant Hall is a resident of Hinds County, Mississippi. Further, all acts and omissions forming the basis of Kirkwood's

complaint occurred at SMCI located in Greene County, Mississippi. Pursuant to 28 U.S.C. § 104(b)(1) and (b)(2), Greene and Hinds counties are located in the Southern District of Mississippi. Thus, venue is proper in the Southern District of Mississippi.

When a case is filed in an improper venue, “[t]he district court . . . shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). The court finds that it is in the interest of justice to transfer this case to the proper district.

Accordingly, this civil action is hereby **TRANSFERRED** to the United States District Court for the Southern District of Mississippi, and all documents filed in this action shall be received in accordance with the local rules of the Southern District of Mississippi.

SO ORDERED this, the 16th day of October, 2019.

/s/ David A. Sanders
DAVID A. SANDERS
UNITED STATES MAGISTRATE JUDGE